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In the High Court of Punjab & Haryana at Chandigarh.

Date of decision : 28.11.2006.

Raj Kumar and others .... Petitioners.

vs

Mehma Singh and another .....Respondents.

Coram Hon'ble Ms. Justice Kiran Anand Lall.

Present: Mr.Arvind Bansal,Advocate, for the petitioners.

Kiran Anand Lall, J.

The petitioners are defendants before the trial court, in a suit for damages which was filed in the year 1997. They sought permission of the trial court to lead additional evidence in the form of copy of judgment dated 22.2.2006 of this court and the oral testimony of a witness, Kesho Ram. Since the judgment dated 20.2.2006 was delivered during the pendency of the present suit, they were allowed to tender copy thereof, in additional evidence, but their prayer for examining Kesho Ram witness was declined. They have, therefore, come up to this court for the setting aside of the order dated 13.11.2006, declining permission for the examination of Kesho Ram (in additional evidence).

As is clear from the impugned order dated 13.11.2006, the petitioners were granted numerous opportunities, during the period 28.3.2001 to 14.6.2002, for leading their evidence. The evidence was closed by their counsel, by making a statement. They had earlier, too, moved an application for additional evidence, which was dismissed by the trial court but was allowed, in revision. If they genuinely wanted to examine Kesho

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Ram as their witness, they could have sought permission for that, in the earlier application. But, they did not do so. The trial court has, therefore, rightly declined permission to them for examining Kesho Ram as a witness, in additional evidence, on the ground that they had not exercised due diligence and had been sleeping for such a long time and further that by moving repeated applications for leading additional evidence they only want to arrest further progress of the suit which is already about nine years old.

No case for interference in the impugned order is made out. The petition shall, accordingly, stand dismissed, in limine.

28.11.2006. (Kiran Anand Lall)
vs. Judge.